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3 BILL NO. 4-79-08-21 (AS AMENDED) (AS Amended)

4 GENERAL ORDINANCE NO. G- 24-79

5 AN ORDINANCE pertaining to a moratorium  
6 on establishment of certain places for the <sup>prohibition of films or the</sup> dissemination of printed or written  
7 material, pictures, drawings, photographs,  
8 motion pictures and other representations.

9 WHEREAS, several establishments have been located in areas  
10 throughout the City of Fort Wayne, Indiana, for the <sup>prohibition of films or the</sup> dissemination  
11 ~~tion and~~ distribution of books, magazines, newspapers, or  
12 printed or written material, pictures, drawings, photographs,  
13 motion pictures, or other pictorial representations, statues,  
14 figures, recordings, transcripts, mechanical, chemical or  
15 electrical reproductions which are sexually oriented and are  
16 designated by such establishments as being for adult persons  
17 over the age of 18 years.

18 WHEREAS, the proximity of such establishments to residential  
19 districts, schools, churches and other places, areas and  
20 districts may be injurious to the public health, safety, com-  
21 fort, morals, convenience and general public welfare; and

22 WHEREAS, there is pending before the Common Council of the  
23 City of Fort Wayne a proposed ordinance which would restrict  
24 such establishments to certain zoned areas; and

25 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
26 THE CITY OF FORT WAYNE, INDIANA:

27 SECTION 1. That for one year from and after the effective  
28 date of this Ordinance, or until the Common Council shall have  
29 voted on the adoption of the Zoning Ordinance aforesaid, which-  
30 ever shall first occur, the Community Development and Planning  
31 Department of the City of Fort Wayne shall not issue any im-  
32 provement location permits or occupancy permits for the con-  
33 struction or alteration of establishments for the <sup>prohibition of films or the</sup> dissemination  
34 ~~and~~ distribution of books, magazines, newspapers or other  
35 printed or written materials, pictures, drawings, photographs,

1 motion pictures or other pictorial representations, statues,  
2 or other figures, recordings, transcripts, mechanical, chemical  
3 or electrical reporductions where it appears that the stock in  
4 trade of such establishment will ~~primarily~~ consist principally  
5 of sexually oriented material, or, in the case of theatres,  
6 that the usual fare will consist of sexually-oriented films,  
7 commonly designated as "X"-rated, or "triple-X" ~~or~~ "adult" films.

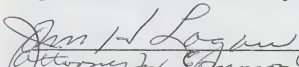
8 SECTION 2. That the City Controller of the City of Fort  
9 Wayne, Indiana shall not issue permits or licenses that will in  
10 any way directly or indirectly violate any provisions of  
11 Section 1 hereof.

12 SECTION 3. If any section, clause, sentence, paragraph,  
13 part or provision of this Ordinance shall be held invalid by  
14 any Court, it shall be conclusively presumed that this Ordinance  
15 would have been passed by the Common Council without such  
16 invalid section, clause, sentence, paragraph, part of provision.

17 SECTION 4. This Ordinance shall be in full force and  
18 effect from and after its passage and approval by the Mayor  
19 and legal publication thereof.

20   
COUNCILMAN

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24 Approved as to form and legality

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26 Attorney for Common Council  
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3 BILL NO. G-79-08- 21  
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5 GENERAL ORDINANCE NO. G-  
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7 AN ORDINANCE pertaining to a moratorium on  
8 establishment of certain places for the  
dissemination of printed or written material,  
pictures, drawings, photographs, motion  
pictures and other representations.

9 WHEREAS, several establishments have been located in areas  
10 throughout the City of Fort Wayne, Indiana for the dissemination  
11 and distribution of books, magazines, newspapers, or printed or  
12 written material, pictures, drawings, photographs, motion pic-  
13 tures, or other pictorial representations, statutes, figures,  
14 recordings, transcripts, mechanical, chemical or electrical  
15 reproductions of information only for adult persons over the  
16 age of 18 years.

17 WHEREAS, the definition of obscene matters and performances  
18 is contained in IC 35-30-10.1-1; and

19 WHEREAS, the proximity of such establishments to residential  
20 districts, schools, churches, and other places, areas and  
21 districts may be injurious to the public health, safety, com-  
22 fort, morals, convenience and general public welfare; and

23 WHEREAS, there is pending before the Common Council of the  
24 City of Fort Wayne a proposed ordinance which would restrict  
25 such establishments to certain zoned areas; and

26 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
27 THE CITY OF FORT WAYNE, INDIANA:

28 SECTION 1. That for one year from and after the effective  
29 date of this Ordinance the City-County Building Department not  
30 issue building permits for the construction or alteration of  
31 establishments for the dissemination and distribution of books,  
32 magazines, newspapers or other printed or written materials,  
33 pictures, drawings, photographs, motion pictures or other  
34 pictorial representations, statutes or other figures, record-  
35 ings, transcripts, mechanical, chemical or electrical

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3 reproductions of information only for adult persons over the  
4 age of 18 years and as defined as obscene matters and perfor-  
5 mances as contained in IC 35-30-10.1-1 as amended.

6 SECTION 2. The Board of Works of the City of Fort Wayne,  
7 Indiana and the City Plan Commission of the City of Fort Wayne,  
8 Indiana shall prepare a study of conditions and criteria which  
9 shall govern the issuance of building permits for construction  
10 and location and use from and after the expiration of the  
11 ban on the issuance of building permits, certificates of use,  
12 certificates of occupancy for such establishments covered in  
13 Section 1 of this Ordinance.

14 SECTION 3. That the City-County Building Department be  
15 further instructed to cooperate with the City Departments in  
16 not issuing building permits or any other permits or certificates  
17 to such establishments covered in Section 1 hereof.

18 SECTION 4. That the City Controller of the City of Fort  
19 Wayne, Indiana issue no permits or licenses that will in any  
20 way directly or indirectly violate any provisions of Section  
21 1 hereof.

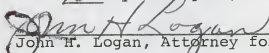
22 SECTION 5. That the Community Development and Planning  
23 Department of the City of Fort Wayne not issue any improvement,  
24 location or occupancy permits covering those establishments  
25 and places mentioned in Section 1 of this Ordinance.

26 SECTION 6. If any section, clause, sentence, paragraph,  
27 part or provision of this Ordinance shall be held invalid by  
28 any court, it shall be conclusively presumed that this Ordinance  
29 would have been passed by the Common Council without such  
30 invalid section, clause, sentence, paragraph, part of provision.

31 SECTION 7. This ordinance shall be in full force and effect  
32 from and after its passage and approval by the Mayor, and legal  
33 publication thereof.

34   
Councilman

35 Approved as form and legality  
this 23<sup>rd</sup> day of August, 1979.

  
John H. Logan, Attorney for Common Council

Read the first time in full and on motion by Talarico, seconded by J. Schmidt, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chamber's, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 8-14-79

Charles W. Wisternman  
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Stier, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>HUNTER</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: 10-23-79

Charles W. Wisternman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. 9-24-79 on the 23rd day of October, 1979.  
ATTEST: (SEAL)

Charles W. Wisternman  
CITY CLERK

Winfield C. Mingo Jr.  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th day of October, 1979, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Wisternman  
CITY CLERK

Approved and signed by me this 29th day of October, 1979, at the hour of 9 o'clock \_\_\_\_\_ M., E.S.T.

Robert Elumchong  
MAYOR

Bill No. G-79-08-21 (AS AMENDED) (AS AMENDED)

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance  
pertaining to a moratorium on establishment of certain places for  
the exhibition of films or the dissemination of printed or written  
material, pictures, drawings, photographs, motion pictures and other  
representations

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance also PASS.

- JOHN NUCKOLS - CHAIRMAN
- SAMUEL J. TALARICO - VICE CHAIRMAN
- VIVIAN G. SCHMIDT
- JAMES S. STIER
- WILLIAM T. HINGA

*John Nuckols*  
*Samuel J. Talarico*  
*Vivian G. Schmidt*  
*James S. Stier*  
*William T. Hinga*

10-23-79 CONCURRED IN  
DATE 10-23-79 CHARLES W. WESTERMAN, CITY CLERK



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2 08-21  
3 BILL NO. G-79-21 (AS AMENDED)

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11 throughout the City of Fort Wayne, Indiana, for the dissemina-  
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14 motion pictures, or other pictorial representations, statues,  
15 figures, recordings, transcripts, mechanical, chemical or  
16 electrical reproductions which are sexually oriented and are  
17 designated by such establishments as being for adult persons  
18 over the age of 18 years.

19 WHEREAS, the proximity of such establishments to residential  
20 districts, schools, churches, and other places, areas and  
21 districts may be injurious to the public health, safety, com-  
22 fort, morals, convenience and general public welfare; and

23 WHEREAS, there is pending before the Common Council of the  
24 City of Fort Wayne a proposed ordinance which would restrict  
25 such establishments to certain zoned areas; and

26 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
27 THE CITY OF FORT WAYNE, INDIANA:

28 SECTION 1. That for one year from and after the effective  
29 date of this Ordinance, the Community Development and Planning  
30 Department of the City of Fort Wayne shall not issue any im-  
31 provement location permits or occupancy permits for the con-  
32 struction or alteration of establishments for the dissemination  
33 and distribution of books, magazines, newspapers or other  
34 printed or written materials, pictures, drawings, photographs,  
35 motion pictures or other pictorial representations, statues,  
or other figures, recordings, transcripts, mechanical, chemical  
or electrical reproductions where it appears that the stock in  
trade of such establishment will primarily consist of sexually

oriented material, or, in the case of theatres, that the usual fare will consist of sexually-oriented films, commonly designated as "X"-rated, or "triple-X" or "adult" films.

SECTION 2. That the City Controller of the City of Fort Wayne, Indiana shall not issue permits or licenses that will in any way directly or indirectly violate any provisions of Section 1 hereof.

SECTION 3. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any Court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part of provision.

SECTION 4. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

COUNCILMAN

Approved as to form and legality  
this 29 day of August, 1979.

John H. Logan  
JOHN H. LOGAN, Attorney for Common Council

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17 Wayne, Indiana, issue no permits or licenses that will in any  
18 way directly or indirectly violate any provisions of Section 1  
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21 Department of the City of Fort Wayne not issue any improvement,  
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27 would have been passed by the Common Council without such  
28 invalid section, clause, sentence, paragraph, part of provision.

29 SECTION 7. This Ordinance shall be in full force and effect  
30 from and after its passage and approval by the Mayor.

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32 \_\_\_\_\_  
33 COUNCILMAN

34 Approved as to form and legality  
35 this 28 day of August, 1979.

  
JOHN H. LOGAN, Attorney for Common Council

G-79-08-21

(AS AMENDED)

Bill No. G-79-01-

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance  
pertaining to a moratorium on establishment of certain places for the  
dissemination of printed or written material, pictures, drawings,  
photographs, motion pictures and other representations

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance Do PASS.

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